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Ohio Commission to Investigate the Road Laws

Report

Columbus

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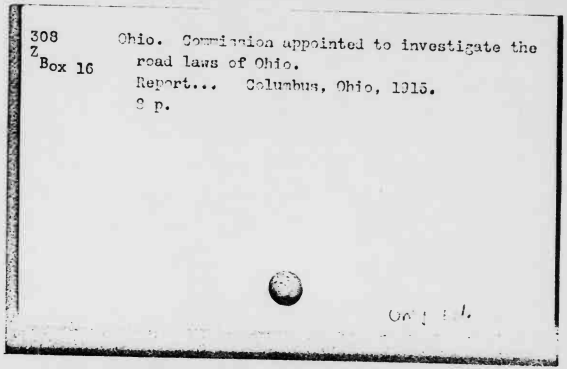

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Report of the

Commission Appointed to Investigate the Road Laws of Ohio

Provided by Senate Bill 297
Passed April 18, 1913

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COLUMBUS, OHIO:
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COLUMBUS, OHIO, January 12, 1915.

Honorable FRANK B. WILLIS, *Governor, Columbus, Ohio.*

DEAR SIR:—Under the provision of Senate Bill No. 207, passed April 18th, 1913, (103 O. L. page 341), a commission was appointed to make a careful study and revision of the road laws of the State of Ohio, with instructions to report its recommendations through the Governor to the next Legislature of Ohio. This commission was appointed about the first of August, 1913, and immediately organized, and has devoted a large amount of time since its organization to a study of the road laws of this, and other States. The investigation which it was hoped would cover only a few months, has required a large amount of time, and now when we are required to submit our report, in order that it may be available for the present session of the Legislature, we are more convinced that ever, that our study of the subject, though extensive and thorough, might be continued indefinitely with profit to the State. Additional investigation and study of new phases of the question only serve to suggest other matters that might well be investigated in connection with the subject. It is not the purpose of this formal letter submitting our report, to go into every detail of this subject, or even into every important phase of it, because our report speaks for itself. It is our purpose, however, to suggest in a brief way, the plan which we have pursued in preparing the proposed law. We shall take up the subjects covered by the report in the order in which they are presented. Those familiar even in a casual way, with the road laws of the state, cannot fail to have been impressed with the fact that various sections of the code are largely duplications, and in many instances separate legislative acts covered, in large part, the same ground.

Under the head of chapter one, of the proposed law, submitted herewith, we have provided a uniform method of locating, establishing, altering, widening, straightening, vacating or changing the direction of roads. The procedure is the same in each instance. Under existing statutes one method of procedure is provided for locating and establishing certain roads, another for vacating certain roads, and another for turning a road. This fact increased largely, the number of statutes relating to the subject matter without affording any advantage whatever; and, instead we have provided one method of procedure by which a road can be established, altered, widened, straightened, vacated, or the direction thereof changed. The procedure has been simplified and we can now do under one method of procedure, all that was originally done under several different plans of procedure.

Chapter two, relates to appeals in road cases. Under existing road laws, provision is made for appeals to the Court with reference to certain phases of road improvement. For constitutional reasons the question of compensation and damages must be submitted to a jury if the property owner affected so desires. For reasons that have been thought sufficient, provision has been made for appeals to the Courts from orders establishing or refusing to establish certain improvements. In this chapter, we provide how appeals may be effected and prescribe the procedure after the appeals are effected. Throughout the proposed law it is provided that whenever appeals are advisable they shall be perfected in the manner pointed out in chapter two and by this plan the whole question of litigation in connection with road improvements is made effective and uniform.

Under the provision of Chapter three, a simple, yet effective plan has been provided for road construction and improvement by township trustees. Objection has been made in some counties to permitting township trustees to construct and improve roads within their township. It has been argued that this whole matter should be transferred to the county commissioners in the interest of efficiency. The commission is unanimously of the opinion that a proper policy is to encourage road building by the township trustees, as well as by the county commissioners, and other proper authorities. Some restriction should be made on expenditures of township trustees for road purposes by bringing their work under the supervision of the county surveyor, who by the terms of the proposed law, is made a county highway superintendent. This has been done, and with this safe-guard against unwise expenditure of public funds by persons not familiar with proper methods of road building, we do not hesitate to say that township trustees should be encouraged to build roads, particularly the roads of minor importance.

Chapter four relates to road construction and improvement by county commissioners. The present statutes relating to this phase of road construction, present a great many distinct plans for road construction, and a careful study of these plans show that the only essential difference among them was in the manner of raising the cost and expense of the improvement. While the method of procedure differs widely, this is only a detail, and the vital distinction among the various plans of procedure lay wholly in the method of apportioning the cost and expense of the improvement. It seems to the commission, that all will agree that the proper thing to do is to provide one method of procedure for road construction in every instance. This can be done, and yet it can be specified in the petition for the improvement, or in the order of the commissioners granting the improvement, how the cost of the same is to be apportioned. This will preserve the equities that have grown up in the various counties through the long use of some particular method or plan of apportioning the cost of the improvement. In some

counties, road commissioners are appointed to look after the construction of the roads. This is a detail only and has been abolished. There was nothing vital in the appointment of road commissioners for a particular improvement, and the commission felt that these positions were entirely superfluous, and there was no reason why the county commissioners should not look after the construction of these roads, thus resulting in greater efficiency through experience and attention to these matters, and at the same time reduce the expense of the improvement by abolishing useless, and unnecessary positions in connection therewith.

Chapter five relates to the condemnation of road building materials and provides a simple and effective plan for the condemnation of such materials. This introduces no new idea and presents existing statutes on the subject with minor changes in the interest of clearness and simplicity.

Chapter six relates to road construction, improvement, maintenance and repair by the State Highway Department. This chapter presents two vital changes from existing law. During the course of our investigation, we visited many states, attended many conventions of good roads organizations, made many inquiries in many sources, and had extensive correspondence with persons who, through experience or study, were competent to give valuable suggestions and advice. The majority of the members of the Commission, when they commenced their investigation, favored a commissioner rather than a commission. At the conclusion of our work, all but one of our number, favored a commission. This member, believing that a commission, with their terms of office expiring at different times, would tend to continuity of the general policies of the department, favors an advisory commission to serve without pay, or at a small salary, and still adheres to the idea of a commissioner rather than such a commission as is provided for in this report. The longer our investigations were continued, the more deeply were we impressed with the many difficult questions presented in connection with the work of the State Highway Department. This department controls the expenditure of more money than any other department of the State government. It is expended over the eighty-eight counties of the State. Large questions of policy must be met and answered, and it appears that nearly every State, that had adopted the commission plan of handling the road question, has been satisfied with the results, while the States making large expenditures of money on roads who handle the department through a commissioner, have generally found the plan more or less unsatisfactory. A commission will meet the many questions presented to it in an impersonal way, and it seems clear that the questions presented are more likely to be decided upon merit alone. With a commission matters of importance must be acted upon after public hearings, and a public record made. We are reminded that under the laws, township and county affairs are handled by boards of three, even though

the magnitude of their responsibility is insignificant as compared with that of the State Highway Department, and that so far as we know, the existence of such boards, has always met with approval of the people, and no effort has ever been made to do away with either the board of township trustees or the board of county commissioners. With the members of a commission appointed for two, four and six years, there will be less likelihood of sudden changes of policy in the department by which it is almost certain, its efficiency will be decreased. In our statement, as to the respective merits of the two plans of organization, we do not wish to be understood as making any personal criticisms. Whatever defects have been disclosed in the workings of the department under a commissioner have, as we view it, been largely the result of the system. We believe that the magnitude of the work under the control of the department, would make it extremely difficult, if not impossible for a commissioner to build up an organization that would be as perfect and effective as might be obtained through a commission. All large business organizations have their policies determined by a board of directors, or executive committee, or similar body, thus providing a method for correcting individual errors of judgment.

The second vital change provided in this chapter relates to the apportioning of the cost of the construction of inter-county and main market roads. It appears to the commission that it was unwise, and unfair to build a high type of road which will confer great financial benefit on abutting property owners, and then permit the abutting property owners to escape any part of the cost of construction. Instances almost without number, may be cited where the building of a high class road has increased the valuation of abutting property several hundred percent without a special contribution of a single dollar by those most benefited. The draft of the proposed law would require abutting property owners in every case to pay ten percent of the cost of construction, to be assessed against abutting property owners in proportion to the benefits resulting to such property owners.

Public hearings have been provided for in connection with applications for the construction of inter-county or main market roads so as to give every interest, so far as possible, an opportunity to present their claims.

We have provided that the funds derived from the registration of automobiles shall be used in the maintenance and repair of inter-county and main market roads.

We have also made provision that the State may act in conjunction with the township trustees in the construction of inter-county roads in cases where no application has been filed by the county.

Chapter seven relates to highway superintendents. In this chapter, the county surveyor has been designated ex-officio the county highway superintendent. The salary of such county highway superintendent

is based on the population of the county. Such salary covers all work on roads and bridges performed for such county by the county highway superintendent. The state highway commission shall designate said county highway superintendent to have charge of all state work within the county, unless they certify such county highway snuperintendent is incompetent. When designated to have charge of work in the county, the state shall pay the county highway superintendent an additional amount equal to one-fourth of his salary, as such county highway superintendent. The duties of county highway superintendent are set forth in detail, but we consider it unnecessary to enumerate the same. We have provided for the appointment of township or district highway superintendents, when necessary, who under the county highway superintendent, shall have charge of the construction, maintenance and repair of all roads within their respective townships or districts. We believe that this provision will result in both economy and increased efficiency.

Chapter eight incorporates the provisions of existing law for dragging unimproved roads, and this provision is not changed, except to conform to the new plan of organization.

Chapter nine includes a number of general provisions which have been grouped in this chapter, because they have no particular connection with the subject matter of any other chapter.

Chapter ten relates to the use of prison labor on roads. We do not care to make any argument for this provision, except to say that a number of states are using the convict labor upon the roads of the state with success, and we thought that the commission should include this chapter in its report, to the end that the state may be able to utilize its convict labor upon the roads if it so desires.

Chapter eleven includes the various penal provisions in the existing code, together with such additional provisions as the investigation and study of the commission suggested.

Chapter twelve includes certain curative and saving provisions. Examination of these provisions will at once disclose the necessity therefor. The provisions relating to repeal are inserted in this chapter under the head of final provisions.

Our attention has been called to the fact that under the present lien laws, no protection is afforded laborers, material men and others dealing with a contractor engaged on public work. It has been suggested that these persons should have the same protection when furnishing labor and material for public work, that they have when furnishing the same for private work. We have not had an opportunity to investigate this matter thoroughly, but we call the attention of the legislature to this omission so that it may take whatever action is deemed proper.

The members of the commission were not always unanimous on the matters included in this report, but the report represents the opinion

of the majority upon all questions, after careful study and consideration. We believe that the proposed law will greatly simplify all matters connected with road construction and improvement, and at the same time result in increased efficiency. We have undertaken to preserve all essentials of the present laws, while at the same time, we have tried to eliminate non-essentials and useless duplication.

There are more than one thousand sections of the code covering these various methods under existing law, and we have been able to reduce the number to three hundred without sacrificing essentials. The proposed draft contemplates a system which reaches from the minor road officials to the state highway department, with the thought that all may be welded into a harmonious organization, which will secure to the people the greatest practical benefits at a minimum of effort and expense.

We desire in this report, to acknowledge the assistance and advice rendered us, and to express our indebtedness to the many persons who have aided us in making our investigations. Among these we desire to mention: Col. E. A. Stevens, Highway Commissioner of New Jersey, Mr. Percy Hooker, Chairman New Hampshire Commission, Hon. P. St. Julien Wilson, formerly connected with the highway department of Virginia, Dr. E. Stagg Whitin, of Columbia University, Mr. Wm. D. Sohier, Chairman of Massachusetts Highway Commission, Mr. G. P. Coleman, Chairman of Highway Department of Virginia, Dr. Joseph Hyde Pratt, State Geologist of North Carolina, and also the employes of the office of Public Roads, Washington, D. C.

In submitting the foregoing statements, we are attaching hereto, and making a part of this report, a proposed draft for the revision of the road laws of Ohio, which we firmly believe, if enacted into a law, will have a very beneficial effect on the entire road situation in Ohio. We believe the road question to be the most important question before the people of Ohio today, and we unhesitatingly urge and recommend the adoption of the proposed bill, believing that its enactment into a law, will prove a great and lasting benefit to the citizens of this great State. It is our hope that the present session of the Legislature may recognize the full importance and scope of this measure and give it preferred attention and consideration.

Respectfully submitted,

ARCH'D H. HUSTON, *Chairman*,
W. A. HITE,
J. I. HUDSON,
THOMAS MULCAHY,
W. A. STINCHCOMB,

Members of the Commission to revise the road laws of Ohio.

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